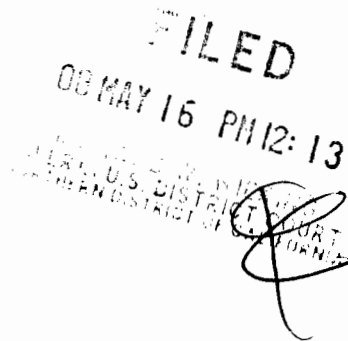


1 Frederick C. Roesti
2 Law Frederick C. Roesti SNB 77932
3 1095 Market Street #419
4 San Francisco, CA 94103
5 Tel 415-552-3733
6 Fax 415-552-1849
7 Attorney for the Plaintiff
8 Edward E. Anderson



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IN THE UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO-BRANCH

Case No. 07-03527 WHA

EDWARD E. ANDERSON,

Plaintiff

vs

✓ AMR The parent of AMERICAN AIRLINES
INC. AMERICAN AIRLINES and Does 1
through 5, inclusive.
Defendants

) Case No. 07-459441 WGY

)
) PLAINTIFF'S MOTION TO BE REMOVED
) FROM THE MANDATORY ELECTRONIC
) FILING DESIGNATION;
) DECLARATION OF FREDERICK C.
) ROESTI

TO THE COURT, THE COURT CLERKS AND DEPUTY CLERKS,
DEFENDANTS, AND OPPOSING COUNSEL

MOTION

Plaintiff and Plaintiff's attorney of record, Frederick C. Roesti, file this motion to remove this case from mandatory electronic filing pursuant to the Declaration of Frederick C. Roesti, that follows, in accordance with directions from the Court's Clerk on May 12, 2008, when the Court's Clerk Office first informed plaintiffs attorney that there was a mandatory electronic filing designation that applied to this case, and plaintiff's attorney would need to file this motion to be removed from the mandatory electronic filing list.

Therefore, Plaintiff and Plaintiff's attorney of record, Frederick C. Roesti, requests the Case No. 07-03527 WHA Plaintiff's motion to be removed from mandatory electronic filing.

1 Court remove plaintiff and plaintiff's attorney from the mandatory electronic designation
2 list, and grant the motion retroactive to October 3, 2007, when attorney Roesti hand filed his
3 substitution of counsel without incident, and to October 10, 2007, when attorney Roesti
4 hand filed the Demand for Jury Trial without incident, and to May 9, 2008, when attorney
5 Roesti filed a motion to amend the complaint in the Federal District Drop Box, after which
6 on Monday, May 12, 2008, attorney Roesti received a telephone call from the Federal District
7 Clerk that he was required to use electronic filing, and needed to file this motion to be
8 removed from the mandatory electronic filing list.

9 **DECLARATION**

10 Frederick C. Roesti declares:

11 1. I am an attorney duly admitted to practice in all the courts of the State of California,
12 the Ninth District Court of United States, the Ninth Appellate Court of the United States, and
13 the United States Supreme Court. I can competently testify the following from my own
14 personal knowledge if called to do so in a court of law.

15 2. A true copy of the Civil Docket Sheet in this case through April 4, 2008 is attached
16 hereto as Exhibit No. 1.

17 3. This case was originally filed by Edward E. Anderson in pro per in California State
18 Court.

19 4. On July 6, 2007, it was removed to Federal Court by Defendants on grounds of
20 diversity jurisdiction. At that time, according to the Civil Docket Sheet, it was designated for
21 Electronic Filing by the Court Staff.

22 5. On October 3, 2007, I substituted in as the attorney of record for Mr. Anderson. I
23 filed my substitution papers by hand without any objection to the hand filing..

24 6. I I never requested, and to my knowledge, never consented to mandatory electronic
25 filing. My practices focuses on discrimination law, like this case, where I always file in
26 California State Courts, if possible, because California law and procedure provide preferred

27 Case No. 07-03527 WHA

28 Plaintiff's motion to be removed
from mandatory electronic filing.

1 procedures, substantive law, and remedies in the best interest of all parties in discrimination
2 cases. As a result, I have not filed an action in Federal Court for some time, and never since
3 the advent of electronic filing. In this case, I have always served all papers on defendants
4 attorney of record by fax and mail so there is no delay in service on their attorney..

5 7. On October 10, 2007, I filed a Demand for Jury Trial by hand without any objection
6 to the hand filing.

7 8. My word processor is not set up to file documents by E-mail. I do not have the
8 software to do that, although I can receive communications from the Court by E-mail.

9 10. From October 25, 2007 through April 15, 2007, from the appointment of Early
10 Neutral Evaluator, John L. Beers to its conclusion, plaintiff and I participated in the Early
11 Neutral Evaluation - Mediation process which we believed had a reasonable prospect of
12 settling this case, with voluntary disclosures, and without protracted discovery. It did not
13 settle.

14 11. Defendants refused to provide requested informal and formal discovery and then
15 filed their motion for summary judgment for May 29, 2008.

16 9. On about May 9, 2008, I filed a motion to amend the complaint to include another
17 State Cause of Action alleging the diverting of gratuities from plaintiff to his employer by use
18 of a \$2 per bag service fee that plaintiff was required to collect from customers, record, and
19 pay over defendant American Airlines, to be heard with the summary judgment motion on
20 May 29, 2008. I filed this motion in the Federal District Court drop box.

21 10. On Monday, May 10, 2008, I received a telephone call from the Court Deputy
22 Clerk that I was required to file my papers by electronic mailing, and that to be removed from
23 mandatory electronic filing, I needed to file this motion.

24 11. On Thursday, May 15, 2008, by use of the Federal District Court Drop Box, I
25 filed a Memorandum of Points and Authorities in opposition to the motion for summary
26 judgment with a declaration from Edward Anderson. From my office's review of the Federal

27 Case No. 07-03527 WHA
28 Plaintiff's motion to be removed
from mandatory electronic filing.

1 and Local Rules, this opposition was timely filed, fourteen days before the scheduled hearing
2 in defendant's motion for summary judgment.

3 12. Today, Friday, May 16, 2008 is the earliest time that I could file this motion since
4 I received the telephonic notice from the Federal District Court Clerk's Office on Monday,
5 March 12, 2008, and notified of the need to file this motion.

6 13. I was not able to file it from Monday, March 12, 2008 through Thursday, March
7 15, 2008 because I am a sole practitioner. The need to file the motion was unexpected, and
8 on Monday, March 12, 2008, I had to research costs over a five year of time, and file an
9 Amended Cost Memorandum on behalf of prevailing defendant in Orosi Public Utility District
10 acting as the Orosie 1995 Sewer Improvement District No 1. V. Galbiso, Tulare County
11 Superior Court Case No. 03-20714, filed March 13, 2008. On March 13, 2008 and 14, 2004, I
12 had to prepare for arbitration on March 14, 2004 in a personal injury case, entitled Burgess v.
13 Norby, Marin County superior Court, Case No. CV064556, in addition to researching, writing
14 and filing the opposition to the summary judgment motion and meeting with Edward E.
15 Anderson to prepare his declaration in opposition to the summary judgment in this motion.

16 14. I did not know that there was a mandatory electronic filing designation that
17 applied to my office in this case, until May 12, 2008, for the reasons stated above, and when
18 I was notified of the mandatory electronic filing requirement, and the need to file this motion
19 to be removed from the mandatory electric filing requirement, I filed it as soon as I
20 could, without sacrificing other court deadlines.

21 I have read the above statement and declare under penalty of perjury of the laws of the
22 State of California and the United States that it is true and correct and that I executed it in
23 San Francisco, California on May 16, 2008

24 
25 Frederick C. Roesti

CONCLUSION

For all the above reasons, plaintiff and plaintiff's attorney request that this case be removed from the mandatory electronic filing designation, so that plaintiff's attorney may file documents with the court by hand, mail, or in the court's drop box.

Plaintiff requests the Court remove plaintiff and plaintiff's attorney from the mandatory electronic filing list from October 3, 2007 because plaintiff's attorney filed his substitution of counsel by hand without objection, and all times thereafter.

Dated: May 16, 2008


Frederick C. Roesti

ADRMOP, E-Filing, ENE

**U.S. District Court
California Northern District (San Francisco)
CIVIL DOCKET FOR CASE #: 3:07-cv-03527-WHA**

Anderson v. AMR et al
Assigned to: Hon. William H. Alsup
Case in other court: San Francisco County Superior Court, CGC07-459441
Cause: 28:1331 Fed. Question: Employment Discrimination

Date Filed: 07/06/2007
Jury Demand: Plaintiff
Nature of Suit: 790 Labor: Other
Jurisdiction: Federal Question

Plaintiff

Edward E. Anderson

represented by **Frederick Christian Roesti**
Law Office of Frederick C. Roesti
1095 Market Street
Suite 419
San Francisco, CA 94103
415-552-3733
Email: frederickcroesti@aol.com
ATTORNEY TO BE NOTICED

V.

Defendant

AMR
The parent of American Airlines Inc.

represented by **Kenneth Richard O'Brien**
Littler Mendelson
2520 Venture Oaks Way, Suite 390
Sacramento, CA 95833
916-830-7200
Fax: 916-561-0828
Email: kobrien@littler.com
ATTORNEY TO BE NOTICED


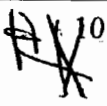
Defendant

American Airlines

represented by **Denise Marie Visconti**
Littler Mendelson
San Diego
501 West Broadway
Suite 900
San Diego, CA 92101
619-232-0441
Fax: 619-232-4302
Email: dvisconti@littler.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ETH/ax NO 9

Kenneth Richard O'Brien
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/06/2007	<u>1</u>	NOTICE OF REMOVAL from San Francisco County Superior Court. Their case number is CGC07-459441. (Filing fee \$350 receipt number 34611008102). Filed by American Airlines. (sis, COURT STAFF) (Filed on 7/6/2007) Additional attachment(s) added on 7/12/2007 (sis, COURT STAFF). (Entered: 07/09/2007)
07/06/2007	2	Declaration of Diane Dildy in Support of 1 Notice of Removal filed by American Airlines. (Related document(s) 1) (sis, COURT STAFF) (Filed on 7/6/2007) Modified on 7/12/2007 (sis, COURT STAFF). Additional attachment(s) added on 7/12/2007 (sis, COURT STAFF). (Entered: 07/09/2007)
07/06/2007	3	Certificate of Interested Entities or Persons and Disclosure Statement by American Airlines (sis, COURT STAFF) (Filed on 7/6/2007) Additional attachment(s) added on 7/12/2007 (sis, COURT STAFF). (Entered: 07/09/2007)
07/06/2007	4	CERTIFICATE OF SERVICE by American Airlines re 2 Declaration in Support, 3 Certificate of Interested Entities, 1 Notice of Removal (sis, COURT STAFF) (Filed on 7/6/2007) (Entered: 07/09/2007)
07/06/2007	5	ADR SCHEDULING ORDER: Case Management Statement due by 10/4/2007. Case Management Conference set for 10/11/2007 11:00 AM. (sis, COURT STAFF) (Filed on 7/6/2007) (Entered: 07/09/2007)
07/06/2007	6	SUPPLEMENTAL ORDER TO ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE re 5 ADR Scheduling Order (Attachments: # 1 Standing Order)(sis, COURT STAFF) (Filed on 7/6/2007) (Entered: 07/09/2007)
07/06/2007		CASE DESIGNATED for Electronic Filing. (sis, COURT STAFF) (Filed on 7/6/2007) (Entered: 07/09/2007)
07/11/2007	7	NOTICE by American Airlines of Order Setting Initial Case Management Conference, ADR Deadlines and Supp Material (Visconti, Denise) (Filed on 7/11/2007) (Entered: 07/11/2007)
07/12/2007	8	CERTIFICATE of Counsel Re Notice to State Court of Removal of Civil Action by Denise Marie Visconti on behalf of American Airlines (Visconti, Denise) (Filed on 7/12/2007) (Entered: 07/12/2007)
09/27/2007	9	ADR Clerks Notice re: Non-Compliance with Court Order. (tjs, COURT STAFF) (Filed on 9/27/2007) (Entered: 09/27/2007)
<u>10/03/2007</u>		NOTICE of Substitution of Counsel by Frederick Christian Roesti (sis, COURT STAFF) (Filed on 10/3/2007) Additional attachment(s) added on 10/4/2007 (sis, COURT STAFF). (Entered: 10/04/2007)
10/04/2007	11	ADR Certification (ADR L.R. 3-5b) of discussion of ADR options <i>ADR Certification by</i>

		<i>Parties and Counsel</i> (Visconti, Denise) (Filed on 10/4/2007) (Entered: 10/04/2007)
04/2007	12	STIPULATION and Proposed Order selecting Arbitration by American Airlines (Visconti, Denise) (Filed on 10/4/2007) (Entered: 10/04/2007)
10/04/2007	13	<u>STATUS REPORT</u> Joint Statement Pursuant to FRCP 26(f) by American Airlines. (Visconti, Denise) (Filed on 10/4/2007) (Entered: 10/04/2007)
10/10/2007	H 14	<u>DEMAND</u> for Trial by Jury by Edward E. Anderson. (sis, COURT STAFF) (Filed on 10/10/2007) (Entered: 10/11/2007)
10/11/2007	15	CLERK'S NOTICE re: Failure to E-File and/or Failure to Register as an E-Filer (Doc. 14) (sis, COURT STAFF) (Filed on 10/11/2007) (Entered: 10/11/2007)
10/11/2007	16	CASE MANAGEMENT SCHEDULING ORDER: ORDER REFERRING CASE to ADR Unit <u>for Early Neutral Evaluation</u> . Subject to motion to allow for a jury (to be noticed for the final pretrial conference), Bench Trial set for 7/14/2008 07:30 AM in Courtroom 9, 19th Floor, San Francisco. Discovery due by 3/7/2008. Motions due by 4/24/2008. Pretrial Conference set for 6/30/2008 02:00 PM in Courtroom 9, 19th Floor, San Francisco. Signed by Judge William Alsup on 10/11/2007. (whasec, COURT STAFF) (Filed on 10/11/2007) (Entered: 10/11/2007)
10/11/2007	17	Minute Entry: Initial Case Management Conference held on 10/11/2007 before William Alsup (Date Filed: 10/11/2007), Case referred to early neutral evaluation. Pretrial Conference set for 6/30/2008 02:00 PM. Bench Trial set for 7/14/2008 07:30 AM. (Court Reporter Sahar McVickar.) (dt, COURT STAFF) (Date Filed: 10/11/2007) (Entered: 10/16/2007)
10/25/2007	18	ADR Clerk's Notice Appointing John L. Beers as ENE Evaluator. (af, COURT STAFF) (Filed on 10/25/2007) (Entered: 10/25/2007)
11/20/2007		Pre <u>ENE</u> phone conference scheduled on 11/28/2007 at 10:00 a.m. (cmf, COURT STAFF) (Filed on 11/20/2007) (Entered: 11/20/2007)
01/04/2008		Set/Reset Hearings: <u>ENE</u> Hearing set for 1/9/2008 10:00 AM., at the law offices of Fisher & Phillips LLP One Embarcadero Center, Suite 2340, San Francisco, CA 94111. (af, COURT STAFF) (Filed on 1/4/2008) (Entered: 01/04/2008)
01/14/2008	19	CERTIFICATION OF ENE Session on 1/9/2008, case not settled, another session scheduled for a date to be determined; late January 2008 or early February 2008, ENE continuing. Signed by Evaluator, John L. Beers, dated 1/10/2008. (af, COURT STAFF) (Filed on 1/14/2008) (Entered: 01/14/2008)
01/18/2008	20	Letter dated 1/18/2008 from Evaluator, John L. Beers. (af, COURT STAFF) (Filed on 1/18/2008) (Entered: 01/18/2008)
01/18/2008		Set/Reset Hearings: ENE Hearing (further) set for 2/13/2008 10:00 AM., at the evaluator's offices, Fisher & Phillips, LLP, One Embarcadero Center, Suite 2340, San Francisco, CA 94111. (af, COURT STAFF) (Filed on 1/18/2008) (Entered: 01/18/2008)
03/12/2008	21	Letter dated 3/12/2008 from Evaluator, John L. Beers. (af, COURT STAFF) (Filed on 3/12/2008) (Entered: 03/12/2008)
03/12/2008		Set/Reset Hearings: ENE Hearing set for 4/15/2008 10:00 AM., at the offices of the evaluator, Fisher & Phillips, LLP, One Embarcadero Center, Suite 2340, San Francisco,

		CA 94111. (af, COURT STAFF) (Filed on 3/12/2008) (Entered: 03/12/2008)
03/24/2008	22	REMINDER NOTICE OF UPCOMING TRIAL (7/14/2008) AND FINAL PRETRIAL CONFERENCE (6/30/2008 AT 2:00 P.M.). Signed by Judge William Alsup on 3/24/2008. (whasec, COURT STAFF) (Filed on 3/24/2008) (Entered: 03/24/2008)
04/04/2008	23	STATUS REPORT <i>JOINT REPORT RE PROGRESS AND STATUS OF ADR</i> by AMR, American Airlines. (O'Brien, Kenneth) (Filed on 4/4/2008) (Entered: 04/04/2008)

PACER Service Center			
Transaction Receipt			
04/22/2008 14:33:59			
PACER Login:	fr1779	Client Code:	Frederick C. Roesti
Description:	Docket Report	Search Criteria:	3:07-cv-03527-WHA
Billable Pages:	3	Cost:	0.24

PROOF OF SERVICE BY FAX AND MAIL

I, the undersigned declare:

I am over the age of eighteen. I am not related to the parties in this action. I may be reached at the Law Office of Frederick C. Roesti, 1095 Market Street, San Francisco, CA 994103, Tel (415) 552-3733.

I served the the following documents:

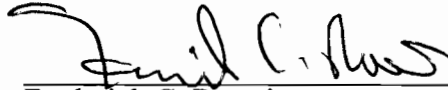
MOTION TO BE REMOVED FROM MANDATORY ELECTRONIC FILING LIST

By FAX and by MAIL as follows: I faxed the documents to the following fax number and I mailed documents by placing them in an envelope with postage paid and placed in the United States Mail addressed to:

Fax (916) 561-0828
Kenneth R. O'Brien, Esq,
Littler Mendelson
2520 Ventura Oaks Way, Suite 390
Sacramento, CA 95833-4227

on the date listed below.

I have read the above statement and declare under penalty of perjury under the laws of the State of California that it is true and correct and was executed in San Francisco, California on May 16, 2007


Frederick C. Roesti